

PAUL BATISTA, P.C.
Attorney-at-Law
26 Broadway – Suite 1900
New York, New York 10004
(631) 377-0111

e-mail: Batista007@aol.com

Facsimile: (212) 344-7677

May 11, 2021

VIA ECF

Hon. Peggy Kuo
U.S. Magistrate Judge
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re : Kashmir Gill v. JUS Broadcasting Corp. et al.,
No. 1:19-cv-4216 (ILG) (PK)**

Dear Judge Kuo:

I represent all defendants in the above-entitled litigation.

Purpose of Letter

I write for several purposes. *First*, this letter will focus on your role in initiating an *ex parte* communication with me on Friday, May 7, 2021. *Second*, this letter will also notify the Court of the status of Google's production of e-mail material to Ms. Sandhu in accordance with every order regarding Google production issues by this Court. *Finally*, I will alert the Court to the fact that I will soon file a motion for your recusal from this litigation on grounds of the disturbing mistreatment of, and bias against, the clients I represent and me personally.

Factual Background

A. The Ex Parte Communication

On May 7, 2021, I received a telephone call from Mr. Ryan O'Neil-Bevan, your Courtroom Deputy. I was driving at the time to Massachusetts to visit my seriously ill sister and had no access to a computer and thus no access to PACER.

Mr. O'Neil-Bevan¹ said the Court had directed him to call me with respect to my knowledge of Ms. Sandhu's compliance with the recent Google-related orders, and that you had instructed him to relay any comments I might make during the cell phone call to you. I explained to Mr. O'Neil-Bevan the circumstances under which I was speaking to him (again, I was driving to Massachusetts with access to my cell phone only) but that I was reasonably confident Ms. Sandhu had complied with the Court's orders. Indeed, I informed Mr. O'Neil-Bevan that I had received a copy of a May 6, 2021 email from Google to Ms. Sandhu regarding Ms. Sandhu's

¹ To be clear, Mr. O'Neil-Bevan is, in my very limited contact with me, an extraordinarily polite person.

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compliance and cooperation, and I offered to forward that recently received email to the Court. My offer was declined. (Annexed as Exhibit 1 to this letter are copies of relevant communications.)

Significantly, Mr. Ackerman was not on that Friday afternoon call, and thus it was an *ex parte* communication.

There should be no *ex parte* communications from the Court to any counsel to any lawyer for a party in this or any other litigation. In forty-five years, I have never received an *ex parte* communication from any Court on any matter other than scheduling, and the call on Friday related to substantive matters. Given your comments and demeanor during most of the more than two year course of this case, I will *not* participate in any further *ex parte* communications. All future communications should be scheduled beforehand and a court-reporter present to record and transcribe them.

B. The Status of Google's Production

As the annexed e-mails illustrate, Google and Ms. Sandhu apparently are in full cooperation with one another. Although not required to do so, I have forward to Mr. Ackerman copies of the Google-Sandhu communications.

C. Recusal

This Court has repeatedly over the course of this action made derogatory comments regarding me, including comments in telephone conferences in which you know Ms. Sandhu is participating. I regard the comments as wholly unjustified.

Indeed, in statements at the most recent telephone conference and in more recent minute entries, you have stated your intention to sanction counsel to both parties. Other than observing that you are upset at a personal level with the extent of the cooperation between Mr. Ackerman and me, you have given no idea why sanctions would be remotely appropriate.

Under these circumstances, I submit that fairness and substantial justice support that you enumerate with some specificity the conduct you deem rises to the level of sanctions and provide sufficient time to respond to any specific issues about which you have grievances before you issue a Report and Recommendation.²

Moreover, the consistent derogatory comments by you, coupled now with the assertion that sanctions will certainly be imposed, demonstrate such a level of bias that recusal now is justified. I have never in a forty-five year career been sanctioned, nor have I ever requested the recusal of a federal or state judge or magistrate. Among other things, you have expressed on the record your own personal feelings about your personal distaste for this case.

² Mr. Ackerman has had no role in the preparation of this letter and I am in no way speaking for him or his views.

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In addition, the Court's management of this case justifies recusal. It is now almost two-and-one-half years since Mr. Ackerman initiated this action on behalf of Kashmir Gill. Despite my repeated requests *on behalf of defendants* that the action proceed to depositions and trial as promptly as possible, no schedule has been set for the completion of discovery and Judge Glasser has thus had no opportunity to set a trial date. Defendants, of course, believe they will be vindicated, and they have no prospect of their "day in court" to resolve this action.

Thus, the management of this action, coupled with your comments, creates a reasonable perception that you find the case uncomfortable for you, not to mention the factors cited earlier in this letter.

Your recusal is appropriate and in the interests of justice.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'PB' with a stylized flourish.

Paul Batista

cc: All Counsel of Record

Exhibit 1

batista007@aol.com

From: google-legal-support@google.com
Sent: Saturday, May 8, 2021 3:48 PM
To: Penny K Sandhu - JUS TV
Cc: PAUL BATISTA
Subject: Re: Google / Gill v. JUS Broadcasting Corp. / No. 1:19-cv-04216 (EDNY) / 4603250

Ms. Sandhu,

The production should be ready to be mailed out on Monday afternoon. The tracking number will be 773657569165. The password to unzip the file containing your email content is 58120921177.

Molly

On Fri, May 07, 2021 at 17:50 UTC "Penny K Sandhu - JUS TV" <Penny@jusbroadcasting.com> wrote:
Thank you Molly ONeil, really appreciate your feedback. Looking forward for shipping tracking information.

Have a great weekend.

Penny K Sandhu
President & CEO
Tel: +1-718-752-9290 X 102

On Thu, May 6, 2021 at 10:51 PM <google-legal-support@google.com> wrote:
Ms. Sandhu,

Thank you for providing the Order and requisite consent language. Google will ship the production on a password-protected USB via FedEx. The password will be 58120921177. I will be sure to select 'Direct Signature Required' on the FedEx label when the production is ready to be sent.

I will follow up with your FedEx tracking number as soon as we send the production.

Best,
Molly

On Wed, May 05, 2021 at 20:42 UTC "Penny K Sandhu - JUS TV" <Penny@jusbroadcasting.com> wrote:

Dear Molly ONeil
As requested by John Roche. Pl see below

I, Penny K Sandhu, am the authorized administrator of the G Suite 'JusBroadcasting.com' account. I consent to Google's disclosure of the communication dated between January 1, 2011 and April 23, 2021. See below text in blue from court order document 111

4. No later than April 28, 2021, **Penny Sandhu** is ordered to send an email message from the Admin Account penny@jusbroadcasting.com to google-legalsupport@google.com with this Order attached ("**Admin Consent Email**"). The **Admin Consent Email** shall state that Penny Sandhu is an authorized administrator of this G Suite account and that she consents to Google's disclosure of the communications dated between **January 1, 2011** and **April 23, 2021**

GMT/UTC associated with the **Google Account**, which are in the **Google Account**, were recently deleted from the **Google Account**, or were preserved pursuant to any request in this matter (the "**Documents**").

5. The **Admin Consent Email** shall further state that the admin consents to Google delivering the **Documents** to Penny Sandhu, c/o Jus Broadcasting Corp., 36-01 36th Ave, 4th Floor, Astoria, New York 11106.

Can you clarify the method of delivery?

If it is a pen drive, please make sure its PASSWORD PROTECTED.

I would request a certified mail method requiring my signature only due to the extremely sensitive and confidential nature of these communications.

Thankyou and have a nice day. Pl feel free to contact me on my email above or my cell 917-653-6900

Penny K Sandhu
President & CEO
Tel: +1-718-752-9290 X 102

On Wed, May 5, 2021 at 11:57 AM Roche, John K. (Perkins Coie) <JRoche@perkinscoie.com> wrote:

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Per my email below, there is also a separate order entered at Docket # 111. If your client can send the order entered at Docket # 111 and the text required by paragraphs 4-5 of that order from her email address penny@jusbroadcasting.com to google-legal-support@google.com, Google can make the document production described by the order at Docket # 111. I have reattached a copy of the order entered at Docket # 111 for your reference. Best, John

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From: PAUL BATISTA <batista007@aol.com>

Sent: Tuesday, May 04, 2021 8:09 PM

To: Roche, John K. (WDC) <JRoche@perkinscoie.com>

Cc: penny@jusbroadcasting.com

Subject: Re: Google / Gill v. JUS Broadcasting Corp. / No. 1:19-cv-04216 (EDNY) / 4603250

John. I will look into this tomorrow. It's after 8 pm. My client has always had every intention of complying, and will always comply, with relevant court orders. And she has.

If this is urgent for you so that you would like to look tonight, please feel free to examine Pacer.

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631 377 0111

212 980 0070

Paulbatistabooks.com

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<Gill - Order Regarding Non-Production of Documents - Doc 111-1.pdf>

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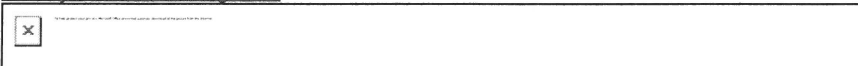
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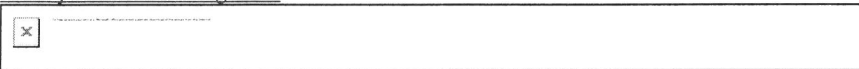
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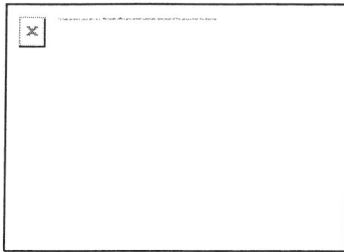
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